

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

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| In the matter of the |) | NOTICE OF PUBLIC HEARING ON |
| adoption of New Rule I |) | PROPOSED ADOPTION |
| pertaining to maintenance |) | |
| of air pollution control |) | |
| equipment for existing |) | |
| aluminum plants | | (AIR QUALITY) |

TO: All Concerned Persons

1. On May 23, 2002, at 10:30 a.m., a public hearing will be held in Room 35 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board no later than 5:00 p.m., May 13, 2002, to advise the Board of the nature of the accommodation that you need. Please contact the Board Secretary at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or email "ber@state.mt.us".

3. The proposed new rule provides as follows:

NEW RULE I MAINTENANCE OF AIR POLLUTION CONTROL EQUIPMENT FOR EXISTING ALUMINUM PLANTS (1) The department may not initiate an enforcement action for a violation of ARM 17.8.111, 17.8.334(2), or any emission standard, resulting from necessary scheduled maintenance of air pollution control equipment at an existing primary aluminum reduction plant, as defined in ARM 17.8.330, if:

(a) the maintenance event meets the following conditions:

(i) the maintenance event is conducted during the month of September;

(ii) the maintenance event will not cause uncontrolled PM-10 emissions to exceed normal operating emissions from reduction cells by more than 700 lbs. per 24-hour period as estimated with emission factors;

(iii) the air pollution control equipment maintenance is initiated between the hours of 9:00 a.m. MDT and 12:00 noon MDT and completed by 8:00 p.m. MDT;

(b) the owner or operator submitted, and the department approved, a maintenance plan pursuant to (2) through (5) below; and

(c) the owner or operator has complied with all requirements of this rule and the approved maintenance plan.

(2) When it is anticipated that shutdown, bypass, or operation at reduced efficiency of air pollution control equipment, for necessary scheduled maintenance of air pollution control equipment, may result in uncontrolled PM-10 emissions over normal operating emissions, prior department approval must be obtained for a maintenance plan that will be used to minimize uncontrolled PM-10 emissions over normal operating emissions. A written application for approval of a maintenance plan, or modifications to an existing approved maintenance plan, must be received by the department at least 45 days prior to the first occurrence of a maintenance event to which the plan applies, and must include the following:

(a) an explanation of the need for maintenance, the reasons the maintenance plan would be of greater benefit to public health, safety, and the environment than shutting down the source operation during the period, and the reasons the bypass or reduced efficiency could not be avoided through better scheduling for maintenance or through better operation and maintenance practices;

(b) identification of the specific air pollution control equipment to be maintained;

(c) a description of the character, amount, and duration of the air contaminants likely to be emitted during the maintenance period, and the estimated amount and duration of uncontrolled PM-10 emissions over normal operating emissions;

(d) a description of the specific procedures that will be used to minimize the length of the maintenance period, such as the use of overtime labor, contract services, and equipment;

(e) a description of the specific procedures that will be used to minimize uncontrolled PM-10 emissions over normal operating emissions during the scheduled maintenance event(s);

(f) citation of all permit requirements, statutes, and rules that might not be complied with during the maintenance event(s); and

(g) the expected date(s) of all maintenance events during which air pollution control equipment will be shut down, bypassed, or operated at reduced efficiency.

(3) Concurrent with submittal of a maintenance plan, public notice must be given as follows:

(a) The applicant shall publish a notice at least once in a newspaper of general circulation published in the geographical area in which the plant or equipment of the applicant is located;

(b) The public notice must include at least the following:

(i) a brief description of the maintenance plan;

(ii) the date(s) of the scheduled maintenance event(s);

(iii) the address and phone number of the premises at which interested persons may obtain further information or inspect or obtain a copy of the maintenance plan;

(iv) the name and address of the person at the department to whom public comments may be sent; and

(v) the date by which comments must be received, which may not be less than 20 days after the date of publication of the notice.

(c) The department shall post a copy of the maintenance plan on its web site.

(4) Within 20 days after the end of the public comment period, the department may approve a maintenance plan submitted to the department in conformance with this rule upon determining that:

(a) the plan will minimize emissions during the maintenance event(s) to the extent practicable;

(b) the maintenance event(s) will not pose a danger to public health, safety, and the environment; and

(c) compliance with the maintenance plan will produce equal or greater benefit to public health, safety, and the environment than shutdown and startup of the facility.

(5) The department may apply conditions to its approval of a maintenance plan. The department shall consider conditions that may affect the concentration of pollutants in the ambient air.

(6) When the department has approved a maintenance plan under this rule, the owner or operator shall notify the department at least 72 hours in advance of each scheduled maintenance event that may result in uncontrolled PM-10 emissions over normal operating emissions. Additional notification may be required:

(a) by permit condition; or

(b) by state implementation plan (SIP) requirement.

(7) The owner or operator of a facility shall report to the department, within 24 hours of occurrence, any deviation from a maintenance plan approved under this rule.

(8) An owner or operator with a maintenance plan approved under this rule shall submit to the department, no later than 45 days after each maintenance event covered by the plan, a written report specifying the date of the event and the amount of any uncontrolled PM-10 emissions over normal operating emissions during the event.

(9) The department may revoke or require modifications to a previously approved maintenance plan at any time by notifying the owner or operator in writing.

(10) Maintenance associated with a maintenance plan approved under this rule may not occur during any period in which an air pollution alert, air pollution warning, or air pollution emergency has been declared pursuant to the Montana emergency episode plan or any applicable county air pollution control program.

(11) Nothing in this rule shall be construed to allow an owner or operator to cause or contribute to violations of any federal or state ambient air quality standard.

AUTH: 75-2-111, MCA

IMP: 75-2-203, MCA

REASON: Background

Columbia Falls Aluminum Company operates a primary aluminum reduction plant near Columbia Falls (herein, "plant"). The plant is equipped with air pollution control equipment, including ducts conveying exhaust to dry scrubbers. The air pollution control equipment requires periodic maintenance to keep it in good operating order. The failure to maintain the air pollution control equipment would eventually result in the failure of the equipment. The failure of the equipment would result in air pollution emissions from the plant that exceed those allowed and may create an unacceptable risk to public health.

The maintenance of the air pollution control equipment requires the plant to shut down the dry scrubbers and to bypass some of the dry scrubbers during the maintenance event. If the plant continues to operate during the shutdown of the dry scrubbers, the air pollution emissions from the plant may exceed those allowed by rules governing emissions of air pollutants, but would be substantially less than the emissions resulting from failure of the air pollution control equipment.

In the past, the plant has applied to the Board of Environmental Review (herein, "Board") for a variance from rules governing emissions of air pollutants so that the plant could maintain the air pollution control equipment while continuing to operate the plant. The process for obtaining such a variance is regulated by Mont. Code Ann. § 75-2-212 and

Mont. Admin. R. 17.8.120. The required procedures are time-consuming. The last variance requested by the plant was submitted to the Board on August 7, 2000, and was granted by the Board on October 27, 2000. The process required one extraordinary meeting of the Board and actions outside of normal time allowances in order to complete the variance process in time to allow the plant maintenance to be conducted.

The last variance granted by the Board imposed several conditions on the maintenance activity. The plant was allowed to maintain its air pollution control equipment during certain hours, only on days with no burning restrictions, when the wind speed was at least 5.6 miles per hour, during the dormant growing season but before the onset of winter inversions. Due to weather conditions, the plant was not able to finish the maintenance of air pollution control equipment during the time allowed by the variance. However, the plant was not required to request another variance from the Board because the plant shut down for unrelated reasons.

Proposed Rule

The proposed rule is intended to allow the plant to maintain air pollution control equipment while the plant is operating, without requiring the plant to apply for and receive a variance from the Board before each period of maintenance. The proposed rule imposes conditions on the maintenance that are similar to the conditions that have been imposed in the past under the variance procedure of Mont. Code Ann. § 75-2-212. For example, under the proposed rule the plant may maintain air pollution control equipment only during certain periods of time and during certain atmospheric conditions. In addition, the quantity of emissions is limited. Under the proposed rule, the plant must obtain approval of its maintenance plan from the Department of Environmental Quality. The plant must follow the variance procedure of Mont. Code Ann. § 75-2-212 for maintenance and other activities that do not satisfy the conditions required by the proposed rule.

The plant's installation of additional air pollution control equipment or redundant ductwork would be technically feasible. Such equipment would allow emissions to be treated by alternate air pollution control equipment during periods of maintenance of the primary air pollution control equipment. However, the installation of such equipment would require a significant capital expenditure.

The plant maintains air pollution control equipment during periods when the plant is shut down. The plant is currently shut down. However, for future maintenance needs, shutting down the plant to maintain the air pollution control equipment and then restarting the plant would be impractical. The shutdown and startup process is expensive and lengthy. It often takes four to six months after startup before processes within the reduction cells stabilize and aluminum is reliably produced. In addition, during shutdown and startup, the emissions of air pollutants by the plant are greater than the emissions during normal operations.

4. Concerned persons may submit their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Board Secretary at Board of Environmental Review, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana, 59620-0901; faxed to (406) 444-4386, or emailed to "ber@state.mt.us", no later than 5:00 p.m., May 30, 2002. To be guaranteed consideration, written comments must be postmarked on or before that date.

5. Thomas Bowe, attorney for the Board, has been designated to preside over and conduct the hearing.

6. The Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to the Board Secretary at Board of Environmental Review, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to (406) 444-4386, emailed to "ber@state.mt.us," or may be made by completing a request form at any rules hearing held by the Board.

7. The bill sponsor notice requirements of Section 2-4-302, MCA, do not apply.

BOARD OF ENVIRONMENTAL REVIEW

BY: JOSEPH W. RUSSELL, M.P.H.,
Chairman

Reviewed by:

David Rusoff, Rule Reviewer

Certified to the Secretary of State _____, 2002.